

## **CHAPTER 28-24**

### **REDEMPTION OF REAL ESTATE**

**28-24-01. Who may redeem - Redemptioner.** Property sold subject to redemption, or any part sold separately, may be redeemed in the manner hereinafter provided, by the following persons or their successors in interest:

1. The judgment debtor, or the judgment debtor's successors in interest; and
2. A creditor having a lien by judgment, mortgage, or otherwise on the property sold, or on some share or part thereof, subsequent to that on which the property was sold.

The persons described in subsection 2 are in this chapter termed redemptioners.

**28-24-02. Payment on and period of redemption.** The judgment debtor or redemptioner may redeem the property from the purchaser by paying the purchaser the amount of the purchase with interest at the rate provided in the original instrument on which the judgment is based, plus the amount of any insurance premiums, assessments, taxes, utilities, or other items paid by the purchaser in protection of the title or the premises, which the purchaser may have paid after the purchase, and interest at the same rate on that amount, and, if the purchaser is also a creditor having a lien superior to that of the redemptioner other than the judgment under which the purchase was made, the amount of that lien with interest. The period of redemption is six months for a redemption under subsection 1 of section 32-19.1-04 and for all other redemptions the period of redemption is one year. The period of redemption begins at the time of the filing of the summons and complaint in the office of the clerk of district court or at the time of the first publication of the notice before foreclosure by advertisement, unless it is determined by the court that the mortgagee is not entitled to judgment. The final date for redemption may not be earlier than sixty days after the sheriff's sale.

**28-24-03. Redemption by redemptioner - Notice to be recorded.** A redemptioner making redemption shall give a written notice of redemption to the sheriff and shall record a duplicate in the office of the recorder of the county where the land is situated. The redemptioner shall state in the notice of redemption an amount that the redemptioner will credit on the claim against the debtor on making redemption. If the amount stated in the notice is less than the amount of the lien under which the redemptioner makes redemption, a later redemptioner may redeem from the earlier redemptioner by paying the amount paid by that redemptioner, together with the amount of any taxes, assessments, utilities, or other items paid by that redemptioner in protection of the title or premises, and interest at the same rate as provided in the original instrument on which the judgment is based, together with the amount stated by the first redemptioner in the notice. The amount stated by a redemptioner in the notice must be treated as a payment of that amount on the indebtedness, and the redemptioner shall immediately endorse that on the evidence of the claim. If the claim is a judgment, the redemptioner shall cause a statement of that amount to be entered by the clerk of court in the judgment docket. That credit is deemed conditional only and must be canceled on proof of a further redemption by the debtor or by a redemptioner having a prior right, without payment of the amount credited.

**28-24-04. Successive redemptions - Time.** If property is redeemed by a redemptioner, another redemptioner, even after the expiration of one year from the day of sale, may redeem from the last redemption if the redemption is made within sixty days after such last redemption. This sixty-day limitation does not apply to any redemption made within one year after the sale by whomsoever or from whomsoever such redemption is made, but all persons entitled to redeem in all cases have the entire period of one year from the day of sale in which to redeem. The property, as often as a redemptioner is so disposed, may be redeemed again from any previous redemptioner within sixty days after the last redemption.

**28-24-05. Redemptioner shall produce requisite papers.** A redemptioner shall produce to the officer or person from whom the redemptioner seeks to redeem and shall serve with the redemptioner's notice to the sheriff:

1. A copy of the docket of the judgment under which the redemptioner claims the right to redeem, certified by the clerk of the district court of the county where the judgment is docketed, or, if the redemptioner redeems upon a mortgage or other lien, a note of the record thereof certified by the recorder;
2. A copy of the assignment necessary to establish the redemptioner's claim, verified by the affidavit of the redemptioner or of a subscribing witness thereto; and
3. An affidavit by the redemptioner or the redemptioner's agent showing the amount then actually due on the lien.

**28-24-06. Redemption by debtor - Recording certificate - Rights of redemption.**

The debtor may not be required to pay more to effect a redemption than the purchase price, with interest from the day of sale, at the same rate as provided in the original instrument on which the judgment is based, and all taxes and other items paid under sections 28-24-02 and 28-24-07 with interest on those items from the date of payment, at the same rate as provided in the original instrument on which the judgment is based, despite the fact that the debtor seeks to redeem from a redemptioner. If the debtor redeems, the effect of the sale is terminated and the debtor is restored to the estate. On a redemption by the debtor, the person to whom the payment is made shall execute and deliver to the debtor a certificate of redemption acknowledged or proved before an officer authorized to take acknowledgments of conveyances of real property. The certificate must be recorded in the office of the recorder of the county in which the property is situated and the recorder shall note that record in the margin of the record of the certificate of sale. If the debtor redeems from a redemptioner who, to effect redemption, has paid liens on the property other than for taxes or assessments, the redemptioner is subrogated to all the rights of the former holders of those liens, and the recording of written notice of that redemption is notice of the rights of that redemptioner in and to all the liens the redemptioner holds as equitable assignee as fully as if formal written assignments had been recorded.

**28-24-07. Protection of premises during period of redemption.** If a sale of real estate is made under execution or upon mortgage foreclosure, the purchaser at the sale or the purchaser's successors in interest, in case of the expiration during the period of redemption of any insurance policy on the premises sold, may pay the premium necessary to procure a renewal of that policy, and, if any taxes or assessments become delinquent, or if any installment of interest or principal on any prior or superior mortgage becomes due during that period of redemption, and any utilities or other items to be paid by the purchaser in protection of the title or premises, the purchaser may pay those charges. The amount so paid, with interest at the same rate as provided in the original instrument on which the judgment is based, is part of the sum necessary to be paid for the redemption from the sale. The payments may be proved by a written notice verified by affidavit of the purchaser, or the purchaser's agent or attorney, stating the items and describing the premises. That notice may be recorded in the office of the recorder and a copy of the notice served on the sheriff of the county. After that service the sheriff, before permitting a redemption, shall collect the full amount specified in the notice in addition to the amount which would otherwise be due in redemption from the sale, and shall pay over that amount to the purchaser at the sale, or the purchaser's assignee.

**28-24-08. Protection of debtor.** In case any mortgagor, redemptioner, or judgment debtor objects to the payment of any insurance premium, taxes, or prior liens on account of the incorrectness or invalidity thereof, that person may file with the sheriff an indemnity bond, in an amount and with sureties to be approved by the judge of the district court, and thereupon the sheriff shall permit redemption to be made without the payment of such insurance premiums, taxes, or prior liens so excepted to, and the purchaser may determine the correctness or validity thereof and may collect the same by an action directly upon such bond, which action must be brought within one year next following such redemption.

**28-24-09. Payments - To whom made.** The payments upon redemption mentioned in this chapter may be made to the purchaser or redemptioner, or for the purchaser or redemptioner, to the officer who made the sale.

**28-24-10. Notice of additional lien.** If any taxes, assessments, insurance premiums, utility charges, or other items are paid by the purchaser or by a redemptioner, or if the purchaser or redemptioner has or acquires any lien other than that on which the sale or redemption was made, written notice of that item must be given to the sheriff and if that notice is not given to the sheriff, the property may be redeemed without paying that tax, assessment, lien, utility, or other item.

**28-24-11. Debtor entitled to rents during redemption period.** The debtor under an execution or foreclosure sale of the debtor's property is entitled to the possession, rents, use, and benefit of the property sold from the date of the sale until the expiration of the period of redemption except as provided by section 32-19-19.

**28-24-12. Waste restrained - Use of premises.** Until the expiration of the time for redemption, the court may restrain the commission of waste on the property by order granted with or without notice, on the application of the purchaser or the judgment creditor. But it is not waste for the person in possession of the property at the time of the sale, or entitled to possession afterwards, during the period allowed for redemption, to continue to use it in the manner in which it previously was used, or to use it in the ordinary course of husbandry, or to make the necessary repairs of buildings thereon, or to use wood or timber on the property therefor, or for the repair of fences, or for fuel for that person's family, while that person occupies the property.

**28-24-13. Sheriff shall execute deed.** If the property is not redeemed according to law, the purchaser or the purchaser's assignee or the redemptioner, as the case may be, is entitled to a sheriff's deed of the property, and the sheriff shall execute and deliver such deed immediately after the time for redemption in each case has expired.

**28-24-14. Effect of sheriff's deed - Contents.** The sheriff's deed is sufficient evidence of the legality of the sale and the proceedings therein, until the contrary is proved, and vests in the grantee as good and perfect a title in the premises therein mentioned and described as was vested in the debtor at or after the time when such real property became liable to the satisfaction of the judgment. Such deed must recite the execution or executions, or the substance thereof, and the names of the parties, the amount and date of rendition of the judgment by virtue whereof the said real property was sold, and must be executed, acknowledged, or proved and recorded as may be provided by law to perfect the conveyance of real property in other cases.

**28-24-15. Sheriff's successor may execute deed.** The sheriff's deed may be executed by any succeeding sheriff to the purchaser or person entitled thereto or the purchaser's or person's legal representatives, and such deed is as good and valid in law and has the same effect as if the sheriff who made the sale had executed the same.

**28-24-16. Chapter applicable to mortgage foreclosures.** The provisions of this chapter relating to redemption of real property govern sales on mortgage foreclosures.